

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Max Bernstein	Team: Team # 3	CCRB Case #: 201104442	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Friday, 04/08/2011 11:25 AM	Location of Incident: § 87(2)(b)	Precinct: 83	18 Mo. SOL 10/8/2012	EO SOL 10/8/2012	
Date/Time CV Reported Fri, 04/08/2011 11:26 AM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Fri, 04/08/2011 11:26 AM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. SGT Arsenio Camilo	03793	938152	083 PCT
2. POM Dwayne Thomas	31632	945864	083 PCT
3. POF Stacey Wollack	03235	939704	083 PCT
4. SGT Genina Dapolito	04670	935081	083 PCT
5. POM Derek Almeida	25236	946426	083 PCT
6. POM Randolph Burgher	01120	939952	083 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Garrett Marsden	04797	938941	083 PCT
2. POF Juana Ortiz	08870	939153	083 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Randolph Burgher	Abuse: PO Randolph Burgher stopped § 87(2)(b) and § 87(2)(b)	§ 87(2)(b)
B.POM Derek Almeida	Abuse: PO Derek Almeida stopped § 87(2)(b) and § 87(2)(b)	§ 87(2)(b)
C.POM Randolph Burgher	Abuse: PO Randolph Burgher frisked § 87(2)(b)	§ 87(2)(b)
D.POM Derek Almeida	Abuse: PO Derek Almeida frisked § 87(2)(b)	§ 87(2)(b)
E.POM Randolph Burgher	Abuse: PO Randolph Burgher searched § 87(2)(b)	§ 87(2)(b)
F.POM Derek Almeida	Abuse: PO Derek Almeida searched § 87(2)(b)	§ 87(2)(b)
G.SGT Arsenio Camilo	Abuse: SGT Arsenio Camilo searched § 87(2)(b)	§ 87(2)(b)
H.SGT Arsenio Camilo	Abuse: SGT Arsenio Camilo threatened to arrest § 87(2)(b)	§ 87(2)(b)
I.SGT Arsenio Camilo	Abuse: SGT Arsenio Camilo refused to provide his shield number to § 87(2)(b)	§ 87(2)(b)
§ 87(4-b), § 87(2)(g)	§ 87(2)(b)	§ 87(2)(b)
§ 87(4-b), § 87(2)(g)	§ 87(2)(b)	§ 87(2)(b)
§ 87(4-b), § 87(2)(g)	§ 87(2)(b)	§ 87(2)(b)

Officer(s)	Allegation	Investigator Recommendation
§ 87(4-b), § 87(2)(g)		
§ 87(4-b), § 87(2)(g)		

### Case Summary

On April 8, 2011, § 87(2)(b) filed this complaint with the CCRB via telephone on behalf of himself and § 87(2)(b). On April 8, 2011, § 87(2)(b) and § 87(2)(b) were walking on § 87(2)(b) in Brooklyn, when they were stopped by Officer Derek Almeida and Officer Randolph Burgher. Sergeant Arsenio Camilo, Officer Dwayne Thomas, Officer Stacey Wollack, and Officer Genina Jones (who has since changed her name and rank to Sergeant Genina Dapolito and will be referred to as such in this report) each assigned to the 83<sup>rd</sup> Precinct, responded to the scene and the following allegations resulted:

**Allegation A—Abuse of Authority: PO Randolph Burgher stopped § 87(2)(b) and § 87(2)(b)**

**Allegation B—Abuse of Authority: PO Derek Almeida stopped § 87(2)(b) and § 87(2)(b)**  
§ 87(2)(g)

**Allegation C—Abuse of Authority: PO Randolph Burgher frisked § 87(2)(b)**

**Allegation D—Abuse of Authority: PO Derek Almeida frisked § 87(2)(b)**  
§ 87(2)(g)

**Allegation E—Abuse of Authority: PO Randolph Burgher searched § 87(2)(b)**

**Allegation F—Abuse of Authority: PO Derek Almeida searched § 87(2)(b)**  
§ 87(2)(g)

**Allegation G—Abuse of Authority: SGT Arsenio Camilo searched § 87(2)(b)**  
§ 87(2)(g)

**Allegation H—Abuse of Authority: SGT Arsenio Camilo threatened to arrest § 87(2)(b)**

**Allegation I: Abuse of Authority: SGT Arsenio Camilo refused to provide his shield number to § 87(2)(b)**  
§ 87(2)(g)

§ 87(4-b), § 87(2)(g)

On April 12, 2011, § 87(2)(b) rejected mediation. On January 27, 2012, this case was reassigned to Inv. Bernstein following Inv. Giordano's departure from the agency.

### **Results of Investigation**

#### **Civilian Statements**

##### **Complainant/Victim:** § 87(2)(b)

- § 87(2)(b)

On April 8, 2011, at the time of his initial complaint, § 87(2)(b) provided a summary of the incident (encl. 10A-B). On May 2, 2011, § 87(2)(b) provided an in-person CCRB statement (encl. 11A-D). § 87(2)(g)

On April 8, 2011, at approximately 11:25am, § 87(2)(b) along with his cousin from § 87(2)(b), § 87(2)(b) exited § 87(2)(b) in Brooklyn to go to the dry cleaners. § 87(2)(b) indicated that they had been inside the apartment building all morning. § 87(2)(b) was wearing a red Champion hoodie, a black Nike vest, grey sweatpants, and black/grey Nike sneakers. § 87(2)(b) was wearing an H&M blazer, a white V-neck t-shirt, blue jeans, and dress shoes. § 87(2)(b) had a TJ Maxx bag with him with a dress shirt inside of it. § 87(2)(b) explained that his grandmother had recently died and they were going to the dry cleaners to have § 87(2)(b)'s clothes' ironed for the wake later that night.

Once they exited the building, they turned left towards § 87(2)(b). When § 87(2)(b) and § 87(2)(b) walked about ten buildings down, a dark green unmarked van pulled up and two uniformed officers exited (identified through investigation as Officer Derek Almeida and Officer Randolph Burgher of the 83<sup>rd</sup> Precinct). § 87(2)(b) described both officers as black males, approximately 5'10" tall, and 200 pounds. § 87(2)(b) indicated that the officer who was in the front passenger seat (identified through investigation as Officer Burgher) approached and told them to get against the wall. § 87(2)(b) asked why, and Officer Burgher replied that he fit a description of an individual wearing a red hoodie in possession of a gun. § 87(2)(b) asked if he was going to stop everyone wearing a red hoodie. Officer Burgher told him to shut up.

The officers separated § 87(2)(b) and § 87(2)(b) who was against a wall. § 87(2)(b) was against a vehicle, facing Officer Burgher, as he began to frisk his hoodie, vest, and pants. Officer Burgher then searched § 87(2)(b)'s hoodie, vest, and pants pockets. § 87(2)(b) indicated that he had a pack of cigarettes in his right pants pocket, keys in the left vest pocket, a wallet and receipts in his back pants pocket, and his phone in his right vest pocket. At this time, Officer Almeida searched § 87(2)(b) but § 87(2)(b) did not see if any items were removed. Officer Almeida also looked through § 87(2)(b)'s TJ Maxx bag.

Following the search, two additional marked patrol cars arrived at the location, one of which traveled down § 87(2)(b) the wrong direction. Two uniformed officers exited each car. One of the officers who arrived (identified through investigation as Sergeant Arsenio Camilo) was a Hispanic or black male with light skin, 5'6" to 5'8" tall, medium build, and a red birthmark above one of his eyes. Sergeant Camilo was accompanied by another officer (identified through investigation as Officer Dwayne Thomas) who § 87(2)(b) described as a young Puerto Rican male, approximately 5'10" tall, who was skinny, and had short hair. A black female and a Hispanic female also arrived (identified through investigation as Officer Stacey Wollack and Sergeant Genina Dapolito).

Without saying anything, Sergeant Camilo came up to § 87(2)(b) and grabbed his elbow. § 87(2)(b) told him there was no need to touch him. Sergeant Camilo told him to shut up and started to search him again. § 87(2)(b) indicated that he had already been searched and that he and his cousin needed to get ready for a wake later that day. Sergeant Camilo responded that § 87(2)(b) might not make it later. Sergeant Camilo searched him but did not remove anything. Sergeant Camilo then went to § 87(2)(b) and kicked his TJ Maxx bag, asking what was inside of it. § 87(2)(b) indicated that only clothes were inside and that the other officer had searched the bag. Sergeant Camilo then kicked the bag again. § 87(2)(b) told Sergeant Camilo that he was an asshole and he should be treated like a criminal. § 87(2)(b) indicated that he was not yelling as he said this. Sergeant Camilo told him that he would arrest him if he did not stop talking.

Sergeant Camilo told the other officers to check § 87(2)(b) and § 87(2)(b) for warrants. § 87(2)(b) handed his ID to Sergeant Dapolito as she went to conduct the warrant search at one of the marked patrol cars. Sergeant Dapolito came back a few minutes later saying § 87(2)(b) did not have any active warrants. Sergeant Camilo told him he was free to go. § 87(2)(b) indicated that he wanted to wait for his cousin. Sergeant Camilo told § 87(2)(b) to go across the street about three times before he actually did so. From across the street, § 87(2)(b) asked Sergeant Camilo for a business card, but he replied that he did not have one. § 87(2)(b) asked Sergeant Camilo for his name and shield number. Sergeant Camilo replied for him to go jog around the block. § 87(2)(b) asked again for his information. Sergeant Camilo replied, "Camilo, like DJ Camilo." Sergeant Camilo also told him that he would probably pull him over for something else in the future and § 87(2)(b) could have his badge anytime he wants. § 87(2)(b)'s warrant check was negative and he was free to leave as well. § 87(2)(b) was never given a Stop, Question and Frisk card.

**Victim:** § 87(2)(b)

§ 87(2)(b) lives in § 87(2)(b) and as such was unable to appear at the CCRB for an in-person interview. On May 17, 2011, § 87(2)(b) was contacted by telephone and provided a telephone statement (encl. 12). § 87(2)(g)

On April 8, 2011, § 87(2)(b) and his cousin, § 87(2)(b) were leaving § 87(2)(b)'s apartment building to go to the dry cleaners. § 87(2)(b) was carrying a clear TJ Maxx bag which contained some clothes he was going to have ironed for the funeral. After they exited the building and walked a few feet, an unmarked dark blue or green van pulled up. Three uniformed officers exited. A young-looking white male officer, slim, about 5' 9" tall (identified through investigation as Officer Almeida) grabbed § 87(2)(b)'s left arm and elbow and pushed him against the wall without giving any instructions. Officer Almeida frisked § 87(2)(b) all over his body and then searched all of his pockets. He did not take any items out. § 87(2)(b) asked why he was being searched, and Officer Almeida told him that they were just doing their job and that § 87(2)(b) fit a description of someone in a red hoody with a gun. § 87(2)(b) and § 87(2)(b) were angry and asked if they were going to stop everyone with a red hoody, as it is too vague a description.

The other two officers present, were a tall, slim, black male and a black female (identified through investigation as Officer Burgher and Sergeant Dapolito). § 87(2)(b) believes Officer Burgher dealt with § 87(2)(b). Both Officer Almeida and Officer Burgher looked through § 87(2)(b)'s bag. A uniformed sergeant (identified through investigation as Sergeant Camilo) arrived at the scene in a marked patrol car. Sergeant Camilo was a possible Hispanic male, 5' 7" tall, bald, medium build, with a birthmark on his face. Sergeant Camilo came to § 87(2)(b) and kicked his TJ Maxx bag and asked what was inside. § 87(2)(b) was upset and told him that he should ask the officer who had already searched the bag. Sergeant Camilo was arrogant and said something to the effect of "I do what I want to do." § 87(2)(b) also argued with Sergeant Camilo, saying that he was a law abiding citizen and what the officers were doing was wrong. It was also mentioned to him that they were going to be late for a funeral. Sergeant Camilo replied, "You may not make it" which § 87(2)(b) perceived as an extremely rude comment. § 87(2)(b) could not recall if Sergeant Camilo arrived with any other officer. He also could not recall at which point in time or which officer took their ID's. § 87(2)(b) asked Sergeant Camilo for his name, but the sergeant refused and told § 87(2)(b) to go across the street. § 87(2)(b) also asked for a business card and Sergeant Camilo replied that he did not have one. § 87(2)(b) tried to come back across the street but Sergeant Camilo told him that he can't come back over. § 87(2)(b) and his cousin were not issued any summonses as a result of the incident.

#### **NYPD Statements:**

##### **Subject Officer: SGT ARSENIO CAMILO**

- *Sergeant Camilo is a § 87(2)(b)*
- *Sergeant Camilo was assigned as the patrol supervisor, worked with Officer Thomas, assigned to marked RMP 3124, dressed in uniform, and worked from 6:55am until 3:52pm.*

##### **Memo Book (encl. 13A-C):**

At 11:15am, Sergeant Camilo noted a radio run regarding a male with a fire arm on § 87(2)(b). At 11:20am, he noted that a male was stopped in regards to the aforementioned radio run in front of § 87(2)(b). At 11:25am, he responded to the scene with sector G/H. At 11:30am, Sergeant Camilo resumed patrol.

##### **CCRB Statement:**

Sergeant Camilo provided an in-person CCRB statement on August 12, 2011 (encl. 14A-B) which is summarized below.

On April 8, 2011, at approximately 11:15am, Sergeant Camilo received a radio run regarding a male with a firearm on § 87(2)(b). He indicated that a description was given at the time, but he did not recall this description during his interview. It took Sergeant Camilo and Officer Thomas 3 to 5 minutes to respond to the location. When they arrived, sector G had § 87(2)(b) and § 87(2)(b) stopped. Sergeant Camilo did not recall specifically which officers were assigned to sector G. § 87(2)(b) and § 87(2)(b) were both standing on the sidewalk, and they were not against a wall. Sergeant Camilo exited the vehicle to supervise the stop. He did not recall what either individual was wearing but he indicated at the time, it was confirmed over the radio that § 87(2)(b) had fit the description very well. Sergeant Camilo did not grab § 87(2)(b) frisk him, or search him at any point. He did not see any other officers frisk or search him nor was he informed that he was frisked or searched. Sergeant Camilo instructed the officers to prepare a stop and frisk report. He believed one of the sector officers did this, but not Officer Thomas. Sergeant Camilo did not recall whether § 87(2)(b) had a shopping bag with him, but Sergeant Camilo stated that he did not kick anyone's bag at the location.

§ 87(2)(b) became a little hostile, asking why he was being stopped. The officers explained to them both why they had conducted the stop. § 87(2)(b) continued to be loud, saying his rights were violated and the stop was illegal. § 87(2)(b) did provide his ID upon request, although he verbally protested. Sergeant Camilo did not recall who took the ID. Once the stop and frisk report was prepared for § 87(2)(b) Sergeant Camilo told him to cross the street so they could prepare one for § 87(2)(b) again protested verbally saying his rights were violated. § 87(2)(b) asked Sergeant Camilo for his name and shield number, which he verbally provided to him. § 87(2)(b) went across the street, made a phone call, and then continued to be loud. At no point did Sergeant Camilo threaten to arrest § 87(2)(b) if he did not stop talking or if he came back across the street. Once the second stop and frisk report was prepared, Sergeant Camilo spoke to the officers about the stop and then went back on patrol. Sergeant Camilo did not recall any additional officers responding to the location.

**Subject Officer: PO DEREK ALMEIDA**

- *Officer Almeida was § 87(2)(b)*
- *Officer Almeida was assigned to Impact overtime, worked with Officer Burgher, assigned to an unmarked RMP# 3401, dressed in uniform, and worked from 9:00am until 5:35pm.*

**Memo Book (encl. 23A-C):**

Officer Almeida had no memo book entries regarding this incident.

**CCRB Statement:**

On March 19, 2012, Officer Almeida provided an in-person CCRB statement (encl. 24A-B ), which is summarized below.

Officer Almeida could not recall this incident. The incident was explained to Officer Almeida in detail, and it did not refresh his memory. Officer Almeida was presented with a picture of § 87(2)(b) and a SPRINT report regarding the incident, and neither helped him to recall the incident.

Officer Almeida had unrelated memo book entries at 10:00am and 12:00pm, and stated that in between those times, he was patrolling. Officer Almeida could not recall responding to a gun run on the incident date. Officer Almeida stated that he only worked with Officer Burgher on that day. Officer Almeida could not recall interacting with Sergeant Camilo, or being involved in an incident where multiple patrol cars arrived at the scene.

Officer Almeida stated that to the best of his knowledge, he did not stop § 87(2)(b) or § 87(2)(b) and he did not frisk or search either § 87(2)(b) or § 87(2)(b). Officer Almeida could not recall Sergeant Camilo refusing to provide his badge number, threatening to arrest § 87(2)(b) or kicking § 87(2)(b)'s bag.

**Subject Officer: PO RANDOLPH BURGHER**

- *Officer Burgher was § 87(2)(b)*
- *Officer Burgher was assigned to Impact overtime, worked with Officer Almeida, was assigned to RMP#3401, dressed in uniform, and worked from 9:00am until 5:35pm.*

**Memo Book (encl. 25A-D):**

Officer Burgher had no memo book entries regarding this incident.

**CCRB Statement:**

On March 20, 2012, Officer Burgher provided an in-person CCRB statement (encl. 26A-B). Officer Burgher could not recall this incident. Officer Burgher could not recall if the van he was working in was marked or unmarked. Officer Burgher stated that when he does Impact overtime, he sometimes uses a marked RMP and sometimes uses an unmarked RMP.

Officer Burgher was presented with a picture of § 87(2)(b) but he did not recognize him. Officer Burgher indicated that when he is doing Impact overtime, he usually does not respond to radio runs. He did say, however, that he could have backed up a sector car responding to a job. Officer Burgher did not recall looking for an individual wearing a red hoodie and black pants in regards to a gun run. He did not recall stopping, frisking, or searching any individuals.

Officer Burgher did not recall interacting with Sergeant Camilo on the incident date, and as such did not recall him threatening to arrest anyone, searching anyone, or refusing to provide his badge number to anyone. Officer Burgher stated that he only worked with Officer Almeida on the date of the incident.

**Subject Officer: PO DWAYNE THOMAS**

- *Officer Thomas is § 87(2)(b)*
- *Officer Thomas was working as Sergeant Camilo's operator, assigned to a marked RMP, dressed in uniform, and worked from 7:05am, until 3:40pm.*

**Memo Book (encl. 15A-C):**

Officer Thomas had no memo book entries regarding this incident.

**CCRB Statement:**

On August 30, 2011, Officer Thomas provided an in-person CCRB statement (encl. 16A-B). Officer Thomas did not recall this incident. Officer Thomas was given a brief summary of the



radio run and situation involving § 87(2)(b) and § 87(2)(b). He was also provided with the SPRINT report in an attempt to refresh his memory. However, Officer Thomas still could not recall the incident. Officer Thomas was presented with a photo of § 87(2)(b) who he did not recognize. Officer Thomas did not recall backing up another sector at the location for a gun run. He did not recall frisking or searching two individuals at the location nor someone having a TJ Maxx shopping bag. He did not witness Sergeant Camilo kick this bag, refuse to provide his badge number to someone, or threaten to arrest anyone at this specific time and location.

**Subject Officer: OFFICER STACEY WOLLACK**

- *Officer Wollack is a § 87(2)(b)*
- *Officer Wollack was assigned to sector G/H, worked with Sergeant Dapolito, assigned to a marked RMP, dressed in uniform, and worked from 7:05am until 3:40pm.*

**Memo Book (encl. 19A-C):**

Officer Wollack did not have any memo book entries regarding this incident.

**CCRB Statement:**

On October 26, 2011, Officer Wollack provided an in-person CCRB statement (encl. 20A-B), which is summarized below.

On April 8, 2011, at approximately 11:00 am, Officer Wollack and Sergeant Dapolito received a radio run regarding a gun run on § 87(2)(b) directed towards sectors I and J. She did not recall any further details regarding the radio run. Officer Wollack and Sergeant Dapolito responded to the location and saw that Sergeant Camilo and Officer Thomas had two males stopped. Officer Wollack and Sergeant Dapolito exited the vehicle and stood approximately 7 feet away as backup. Officer Wollack did not hear any conversation that took place nor could she tell how the males who were stopped were acting. She did not recall seeing a shopping bag of any kind but she did recall that one of the males was holding a shirt saying they were going to a funeral. Officer Wollack did not witness any officer search or frisk either male. She did not witness any officer kick a shopping bag belonging to one of the males. Officer Wollack did not hear Sergeant Camilo threaten to arrest either male. Officer Wollack believed that she and Sergeant Dapolito ran the males' names for warrants. Neither one was arrested. Officer Wollack did not recall whether one of the males went across the street and asked Sergeant Camilo for his business card, name, or shield number. She did not hear Sergeant Camilo refuse to provide this information. If stop and frisk reports were prepared, they would most likely have been done so by Sergeant Camilo and Officer Thomas. Officer Wollack believed that at some point during the incident sectors I and J, Officer Marsden and Officer Ortiz, drove to the location, but never exited the vehicle.

**Subject Officer: SERGEANT GENINA DAPOLITO (formerly OFFICER GENINA JONES)**

- *Sergeant Dapolito was a § 87(2)(b)*
- *Sergeant Dapolito was assigned to sector G/H, worked with Officer Wollack, was assigned to a marked RMP, dressed in uniform, and worked from 7:05am until 3:40pm.*

**Memo Book (encl. 21A-C):**

Sergeant Dapolito did not have any memo book entries regarding this incident.

**CCRB Statement:**

On February 28, 2012, Sergeant Dapolito provided an in-person CCRB statement (encl. 22A-B), which is summarized below.

Sergeant Dapolito stated that she did not have any direct interaction with § 87(2)(b) or § 87(2)(b) but she witnessed most of the incident.

On April 8, 2011, a gun run came over the radio assigned to sector I/J. However, that sector was not responding, so Sergeant Dapolito and Officer Wollack picked up the job. When she arrived to the scene, Sergeant Dapolito saw two Hispanic males § 87(2)(b) and § 87(2)(b) stopped by two officers dressed in plainclothes. Sergeant Dapolito stated that one of the officers was Officer Burgher, and she believed that the other was Officer Almeida. Sergeant Dapolito indicated that one of the individuals stopped (identified through investigation as § 87(2)(b) matched the description put over the radio of the individual with a gun. She could not recall with certainty, but Sergeant Dapolito believed that he was wearing a red hoodie at the time. Sergeant Dapolito could not recall if she saw the officers' hands on § 87(2)(b) or § 87(2)(b) but she stated that usually officers frisk individuals before asking for ID, and since she heard them ask for ID, she figured that the men had already been frisked.

Sergeant Dapolito noted that Sergeant Camilo arrived at the scene at the same time that she and Officer Wollack did. Sergeant Dapolito could not recall if Sergeant Camilo had an operator at that time, but indicated that at this point there were at least five officers at the scene. § 87(2)(b) and § 87(2)(b) were asking the officers why they had been stopped, and Sergeant Camilo tried to explain that § 87(2)(b) matched the physical description of an individual with a gun. § 87(2)(b) and § 87(2)(b) were still upset about the stop, so one of the officers asked for the dispatcher to come over the air with the description of the individual with a gun, just to prove that § 87(2)(b) did in fact fit the description.

§ 87(2)(b) was holding a bag of clothes from the dry cleaners, and he told the officers that he had a funeral to go to, and explained that he was running late. Sergeant Camilo seemed to be sympathetic, and explained that § 87(2)(b) and § 87(2)(b) needed to provide their IDs in order for the officers to document the stop, and then they would be free to leave. § 87(2)(b) complied, but § 87(2)(b) asked why they needed his ID, and Sergeant Dapolito recalled him being nervous because he was from out of state. Sergeant Camilo again explained that he needed § 87(2)(b)'s ID as it is procedure to do so. § 87(2)(b) complied, and one of the officers documented his information, before Sergeant Camilo told the men they were free to leave. As § 87(2)(b) was walking away, he was noticeably upset and saying that the stop was "some bullshit," but he wasn't acting out of control. Sergeant Dapolito stated that the officers understood why he was upset, as he was on his way to his grandmother's funeral. Sergeant Dapolito indicated that she did not interact with § 87(2)(b) or § 87(2)(b) and stood behind the other officers at the scene throughout the duration of the incident.

Sergeant Dapolito stated that at no point did Sergeant Camilo or any other officer frisk or search § 87(2)(b) or § 87(2)(b) once she arrived at the scene. Sergeant Dapolito added that no officer searched or kicked any of § 87(2)(b)'s or § 87(2)(b)'s belongings. At no point did Sergeant Camilo threaten to arrest § 87(2)(b) and at no point did he refuse to provide his shield number to § 87(2)(b).

Sergeant Dapolito noted that Officer Ortiz and Officer Marsden, who were initially assigned the job, responded to the scene after she, Officer Wollack, and Sergeant Camilo had responded. Officer Ortiz and Officer Marsden drove past the scene, but did not get out of their vehicle, as they saw that the situation was already being handled.

**Witness Officers: PO GARRETT MARSDEN/ PO JUANA ORTIZ**

- *Officer Marsden is § 87(2)(b). Officer Ortiz was § 87(2)(b).*
- *Officer Marsden and Officer Ortiz were assigned to sector I/J, assigned to marked RMP#4151, dressed in uniform, and worked from 7:05am until 3:40pm.*

**Memo Book (encl. 17A-D):**

At 11:09am, Officer Marsden and Officer Ortiz received a radio run regarding a gun at § 87(2)(b), however at 11:16am, they resumed patrol since sectors G and H handled the job.

**CCRB Statement:**

On September 27, 2011, Officer Marsden provided an in-person CCRB statement (encl. 18A-B) and on March 22, 2012, Officer Ortiz provided an in-person CCRB statement (encl. 24A-B). Both officers stated that they did not interact with § 87(2)(b) or § 87(2)(b) on the incident. The officers confirmed that they responded to the scene, but drove past when they observed that other sectors were already handling the job.

**NYPD Document**

**911 Call (encl. 30) :**

An anonymous caller stated that a “Guy in a red hoodie was brandishing a gun.” The caller indicated that the individual was on § 87(2)(b). He added that the male was wearing a red hoodie and black pants.

**SPRINT Job § 87(2)(b) (encl. 29A-B) and Police Communications (encl. 30):**

Dispatcher asked Sector I to respond to a male Hispanic with a gun wearing a red hoodie and black pants. 83G went over the radio stating that they would take the job, and the dispatcher told the sergeant that 2 units were responding to a 10-10 (possible crime) with a firearm. The dispatcher stated that the caller was anonymous and had placed the call from a pay phone outside of § 87(2)(b).

Three minutes after the call was initially made, 83G responded that they had one male stopped in front of § 87(2)(b). 83 I arrived at the scene, but came over the radio stating that Sector G was handling the job, and they were therefore resuming patrol.

Two minutes later, the Sergeant stated that no further units were needed.

An officer from Sector G read both § 87(2)(b)'s information and § 87(2)(b)'s information over the radio to be checked for warrants. Both warrant checks were negative.

At the conclusion of the incident, Sector G came over the radio stating that 2 non-arrest reports were completed.

**Stop, Question and Frisk Log (encl. 33A-C):**

After a review of the 83<sup>rd</sup> Precinct Stop, Question and Frisk log from April 8, 2011, there were no Stop, Question and Frisk reports prepared for § 87(2)(b) or § 87(2)(b)

**Status of Civil Proceedings**

- Neither § 87(2)(b) nor § 87(2)(b) has filed a Notice of Claim with the City of New York as of March 30, 2012 with regard to the incident (encl. 34).

**Civilian Criminal History**

- § 87(2)(b)  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

**Civilian CCRB History**

- § 87(2)(b)  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

**Subject Officers CCRB History**

- Sergeant Arsenio Camilo has been a member of the service for six years and there are three substantiated CCRB allegations against him (encl. 3).
  - In case 200802601, allegations of a vehicle stop, vehicle search, and search of a person were substantiated against Sergeant Camilo. The board recommended charges. The NYPD imposed instructions for the vehicle stop and the search of a person, but the department was unable to prosecute the vehicle search.
- Officer Randolph Burgher has been a member of the service for six years and there are no substantiated CCRB allegations against him (encl. 4)
- Officer Derek Almeida has been a member of the service for four years and there are no substantiated CCRB allegations against him (encl. 5A-B).
- Officer Dwayne Thomas has been a member of the service for four years and there are no substantiated allegations against him (encl. 6).
- Officer Stacey Wollack has been a member of the service for six years and there are no substantiated allegations against her (encl. 7).
- Sergeant Genina Dapolito been a member of the service for seven years and there are no substantiated allegations against her (encl. 8).

**Conclusion****Identification of Subject Officers**

Officer Almeida and Officer Burgher could not recall this incident, however, the investigation was able to determine that they were the first officers to stop § 87(2)(b) and § 87(2)(b)

While § 87(2)(b) and § 87(2)(b) provided inconsistent statements regarding the officers who initially approached them, they were consistent in indicating that they were separated and following the separation, primarily interacted with one officer respectively. § 87(2)(b) described the officer that he interacted with as a Black male, 5'10" tall, and about 200 pounds. § 87(2)(b)

§ 87(2)(b) described the officer he interacted with as a young-looking White male, slim, about 5' 9" tall. Officer Burgher and Officer Almeida generally match these physical descriptions. Additionally, Officer Almeida and Officer Burgher were assigned to RMP#3401, and Fleet Services confirmed that RMP#3401 is a dark green unmarked van. Both § 87(2)(b) and § 87(2)(b) stated that the officers who initially stopped them came from a dark green unmarked van. Furthermore, Sergeant Dapolito, the officer that recalled the incident with the most detail and specificity, stated that the first officers to stop § 87(2)(b) and § 87(2)(b) were Officer Almeida and Officer Burgher, without viewing a roll call or any other type of documentation that would prompt her to provide those names. Based on all of the aforementioned factors, Allegations A, C, and E will be pleaded against Officer Burgher, and Allegations B, D, and F will be pleaded against Officer Almeida.

Sergeant Camilo confirmed his interaction with § 87(2)(b) and § 87(2)(b) and therefore Allegations G, H, and I will be pleaded against him.

### **Investigative Findings and Recommendations**

#### **Allegations Not Pleased:**

§ 87(2)(b) and § 87(2)(b) stated that Sergeant Camilo kicked § 87(2)(b)'s shopping bag containing clothing. This allegation will be subsumed with the stop allegations, as Sergeant Camilo's alleged action was in conjunction with questioning § 87(2)(b) about the contents of his bag.

**Allegation A—Abuse of Authority: PO Randolph Burgher stopped § 87(2)(b) and § 87(2)(b)**

**Allegation B—Abuse of Authority: PO Derek Almeida stopped § 87(2)(b) and § 87(2)(b)**

§ 87(2)(b) and § 87(2)(b) stated that Officer Burgher and Officer Almeida stopped them near the intersection of § 87(2)(b). Neither Officer Burgher nor Officer Almeida could recall this incident. Based on the civilians' description of the officers and their RMP, and the statement provided by Sergeant Dapolito, the investigation was able to determine that Officer Burgher and Officer Almeida were the first officers to stop § 87(2)(b) and § 87(2)(b).

As demonstrated in People v. Morales 872 N.Y.S.2d 192 (2009) (encl. 1A-C), if a defendant matches a description of a perpetrator provided in a radio run, and that defendant is in close proximity to the location of where a crime took place shortly after that crime took place, an officer has reasonable suspicion to stop that individual.

§ 87(2)(g)  
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§ 87(2)(g)

**Allegation C—Abuse of Authority: PO Randolph Burgher frisked § 87(2)(b)**

**Allegation D—Abuse of Authority: PO Derek Almeida frisked § 87(2)(b)**

It is disputed whether or not § 87(2)(b) and § 87(2)(b) were frisked. § 87(2)(b) and § 87(2)(b) stated that they were frisked by Officer Burgher and Officer Almeida respectively. Officer Burgher and Officer Almeida could not recall this incident, and no other officers were at the scene when these allegations took place. Sergeant Dapolito stated that she assumed that § 87(2)(b) and § 87(2)(b) were frisked before she had arrived at the scene, but she stated that she did not observe these frisks. There were no Stop, Question and Frisk reports prepared for this incident.

§ 87(2)(g)

[REDACTED]

**Allegation E—Abuse of Authority: PO Randolph Burgher searched § 87(2)(b)**

**Allegation F—Abuse of Authority: PO Derek Almeida searched § 87(2)(b)**

§ 87(2)(b) and § 87(2)(b) stated that they were searched by Officer Burgher and Officer Almeida respectively. Officer Burgher and Officer Almeida could not recall this incident, and no other officers were at the scene when these allegations took place.

§ 87(2)(g)

[REDACTED]

**Allegation G—Abuse of Authority: SGT Arsenio Camilo searched § 87(2)(b)**

§ 87(2)(b) stated that Sergeant Camilo searched him after he had already been frisked and searched by Officer Burgher. Sergeant Camilo denies ever searching § 87(2)(b) and the other officers at the scene stated that at no point did Sergeant Camilo search § 87(2)(b)

§ 87(2)(g)

[REDACTED]

**Allegation H—Abuse of Authority: SGT Arsenio Camilo threatened to arrest § 87(2)(b)**

**Allegation I—Abuse of Authority: SGT Arsenio Camilo refused to provide his shield number to § 87(2)(b)**

§ 87(2)(b) stated that Sergeant Camilo threatened to arrest him if he did not stop talking. § 87(2)(b) and § 87(2)(b) stated that Sergeant Camilo refused to provide his badge number to § 87(2)(b)

upon requesting it. § 87(2)(b) did, however, confirm that Sergeant Camilo provided his name up request. Sergeant Camilo stated that he provided his name and badge number upon § 87(2)(b)'s request, and the other officers at the location could not recall Sergeant Camilo refusing to provide his badge number.

§ 87(2)(g)

§ 87(4-b), § 87(2)(g)

Team: \_\_\_\_\_

Investigator: _____	_____	_____
Signature	Print	Date

Supervisor: _____	_____	_____
Title/Signature	Print	Date

Reviewer: _____	_____	_____
Title/Signature	Print	Date

Reviewer: _____	_____	_____
Title/Signature	Print	Date

